THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.2034 OF 2006

DATED: 12-7-2007

Between:

The Krishna District Milk Producers Mutually Aided Cooperative Union Ltd., Milk Products Factory, Vijayawada, rep.by its Managing Director Dr T.Babu Rao

.. Petitioner

and

The Regional Director, Employees State Insurance Corporation, 5-9-23, Hill Fort Road, Hyderabad and others.

.. Respondents

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WRIT PETITION NO.2034 OF 2006

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents in issuing the Demand Notice No.AP/SRO/MEC/62-16321-08/2, dated 09.01.2006, demanding the petitioner to pay Rs.63,64,116/- towards interest on the delayed payment of employees' contributions, as arbitrary and illegal.

There is no necessity of going into all the details.

Admittedly, against the impugned order dated 09.01.2006, the petitioner has an effective alternative remedy of filing a statutory appeal under Section 75 of the Employees State Insurance Act (for short 'the Act') before the E.S.I. Court. But, instead of availing the same, the petitioner has approached this Court through this writ petition.

The learned counsel for the petitioner states that the petitioner has to deposit 50% of the amount at the time of filing the appeal, which is mandatory and onerous, and, hence, the petitioner had to file this writ petition. He further states that the issue that arises for consideration in this writ petition is squarely covered by an unreported Judgment of the Supreme Court in Civil Appeal No.1727 of 2005, dated 17.07.2006.

On the other hand, the learned counsel for the respondents states that earlier the petitioner had deposited an amount of Rs.13,00,000/- to the credit of EIC No.32 of 2002 on the file of E.S.I. Court and, though the said case was allowed, the said amount is still

lying with the E.S.I. Court. He further submits that the matter requires special adjudication by the E.S.I Court on the basis of documentary and oral evidence, if any, necessary.

In the circumstances, without expressing any opinion on merits, the petitioner is directed to file an appeal before the competent authority- E.S.I. Court, Hyderabad, against the impugned order, within a period of four weeks from today, and, on filing such appeal, the E.S.I. Court shall entertain the same without raising any objection as to the period of limitation.

However, in view of the fact that the petitioner has already deposited an amount of Rs.13,00,000/- to the credit of the EIC No.32 of 2002, which is still lying with the E.S.I. Court, the impugned notice shall not be given effect to, during the pendency of the appeal and the E.S.I. Court shall dispose of the appeal within a period of six months from the date of filing of the appeal.

With the above directions, the writ petition is disposed of. No costs.

C.V. RAMULU, J

12th July, 2007.
Note:-
Issue order copy in
One week.
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